

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

DAVID ROBERT BUSWELL,

Petitioner,

v.

//

CIVIL ACTION NO. 1:08CV145
(Judge Keeley)

WAYNE PHILLIPS,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On July 18, 2008, pro se petitioner, David Robert Buswell, ("Buswell") filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The Court referred this matter to United States Magistrate Judge James E. Seibert for initial screening and a Report and Recommendation ("R&R") in accordance with Local Rule of Prisoner Litigation 83.09.

On July 31, 2008, Magistrate Judge Seibert issued an R&R recommending that this Court deny the petition as the claims relate to 28 U.S.C. § 2241 and transfer the case to the United States District Court for the Eastern District of Virginia for appropriate action pursuant to 28 U.S.C. § 2255. The R&R also specifically warned that failure to object to it would result in the waiver of any appellate rights on this issue. Nevertheless, Buswell failed to file any objections.¹

¹ Buswell's failure to object to the Report and Recommendation not only waives his appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

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Consequently, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 9), **DENIES** the Petition for Writ of Habeas Corpus as those claims relate to 28 U.S.C. § 2241 (dkt. no. 1), and **TRANSFERS** this case to the United States District Court for the Eastern District of Virginia for further consideration of the claims pursuant to 28 U.S.C. § 2255. The Clerk is ordered to **STRIKE** this case from the Court's docket.

The Clerk is directed to mail a copy of this Order to the pro se petitioner, certified mail, return receipt requested, and to transmit copies of this Order to counsel of record.

Dated: August 25, 2008.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE